

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Cesar de la Garza,

Civil No. 06-4767 (RHK/JJG)

Petitioner,

v.

ORDER

Joan Fabian,

Respondent.

The above-entitled matter came before the Court upon the Report and Recommendation of the United States Magistrate Judge.

Based upon the Report and Recommendation of the Magistrate Judge, including a de novo review of the Objections thereto, and all the files, records and proceedings herein, **IT IS ORDERED:**

1. The Objections (Doc. No. 45) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 44) is **ADOPTED**;
3. Respondent's Motion to Dismiss (Doc. No. 15), is **GRANTED IN PART** and **DENIED IN PART**;
4. Grounds Two through Eleven of Petitioner's habeas corpus petition are **DENIED** and **DISMISSED WITH PREJUDICE**;
5. Respondent is ordered to file, by September 30, 2007, a comprehensive answer to Ground One of Petitioner's habeas corpus petition, showing cause why Petitioner should not be granted a writ of habeas corpus on that claim; and

6. Petitioner's Motions for appointment of counsel (Doc. No. 27), for discovery (Doc. No. 30), for an evidentiary hearing (Doc. No. 32), and for stay (Doc. Nos. 19 and 36), are each

DENIED.

Dated: August 31, 2007

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge